

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** City Manager

**AGENDA DATE:** January 24, 2012

**CONTACT PERSON/PHONE:** William F. Studer, Jr., Deputy City Manager, 915-541-4252

**DISTRICT(S) AFFECTED:** All Districts

**SUBJECT:** Consider and take appropriate action with respect to a Resolution authorizing the execution and delivery of an amendment to the agreement with respect to Transportation Reinvestment Zone Number Three; resolving other matters related thereto; and providing an effective date.

**BACKGROUND / DISCUSSION:** In furtherance of the 2008 Comprehensive Mobility Plan with the Camino Real Regional Mobility Authority (CRRMA) and the Texas Department of Transportation (TxDOT), the City agreed to provide a portion of the funds necessary for the completion of the Transmountain Northeast Mainlane Extension Project through the creation of the City's Transportation Reinvestment Zone #3. The original legislation governing the use of funds generated by a transportation reinvestment zone (TRZ) required a pass-through component to any such project. A legislative change in law has deleted that requirement and the parties no longer desire to include a pass-through financing component in the funding approach for the referenced project. The attached resolution authorizes the execution of a 1<sup>st</sup> Amendment to the TRZ #3 Agreement which deletes the requirement of a pass-through financing component from the TRZ #3 Agreement.

**PRIOR COUNCIL ACTION:** The Council approved the transfer of TRZ #3 generated funds to the CRRMA for the referenced project through the TRZ #3 Agreement on June 29, 2010.

**AMOUNT AND SOURCE OF FUNDING:**


N/A

**BOARD / COMMISSION ACTION:** The CRRMA and TxDOT's Boards will take action on this item on January 25, 2012 and January 26, 2012, respectively.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** \_\_\_\_\_

  
(Example: if RCA is initiated by Purchasing, client department should sign also)  
Information copy to appropriate Deputy City Manager

**APPROVED FOR AGENDA:** \_\_\_\_\_

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## RESOLUTION

A RESOLUTION OF THE CITY OF EL PASO, TEXAS, AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDMENT TO THE AGREEMENT WITH RESPECT TO TRANSPORTATION REINVESTMENT ZONE NUMBER THREE; RESOLVING OTHER MATTERS RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of El Paso, Texas (the "City"), a body corporate and politic existing under the laws of the State of Texas, has previously established a Transportation Reinvestment Zone Number Three, City of El Paso, Texas (the "Zone") to promote transportation projects described by Section 222.104 of the Texas Transportation Code ("Section 222.104") that cultivate development and redevelopment of the Zone; and

WHEREAS, on June 29, 2010, the Camino Real Regional Mobility Authority (the "CRRMA") and the City entered into an "Agreement With Respect to Transportation Reinvestment Zone Number Three" for the development and construction of one or more transportation projects within the Zone and the transfer and pledge of certain revenues for the payment of such projects (the "Original Agreement"); and

WHEREAS, the City and the CRRMA originally intended to enter into one or more agreements (the "Pass-through Agreement") with the Texas Department of Transportation (the "Department") under Section 222.104 for the design, development, financing, construction, maintenance, or operation of certain projects located within the Zone; and

WHEREAS, as a result of a change in law and anticipated funding sources for projects within the Zone, the Department, the CRRMA and the City have mutually determined that a Pass-Through Agreement is no longer required for the Zone projects which necessitates certain technical amendments to the Original Agreement; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. Approval of Documents. The form, terms and provisions of the "First Amendment To Agreement With Respect To Transportation Reinvestment Zone Number Three" in substantially the form attached hereto as **Exhibit A** (the "First Amendment") is hereby approved with such insertions, omissions and changes as shall be approved by the City Manager of the City, the execution of such document being conclusive evidence of such approval. The City Manager of the City is hereby authorized and directed to execute such agreement and any related exhibits attached thereto and to deliver such agreement (including any necessary exhibits) to the respective parties thereto, and the City Clerk of the City is hereby authorized to affix the seal of the City to such document as required therein. Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Original Agreement, as amended by the First Amendment.

SECTION 2. Other Actions Authorized. To extent the Department has previously approved a pass-through toll application for the "Project" as defined in the First Amendment, the City acknowledges that such pass-through agreement is no longer needed for such project

because of the change of law and the CRRMA's other financing sources and the City hereby waives any rights it may have under such Departmental approval and affirms it will not look to the Department for pass-through toll financing on the Project under such prior Departmental approval. In addition, the City affirms its contractual obligation under the terms of the Original Agreement, as amended by the First Amendment, to transfer the Tax Increment and the TRZ Contract Payments in support of CRRMA Obligations issued for the Project as further described in such agreement, including the development of the Project by the Department pursuant to Section 222.108 of the Texas Transportation Code. The City Manager, the Deputy City Manager for Finance and Management Support Services, and other officers and employees of the City are hereby authorized to take all action necessary or reasonably required by the parties to the First Amendment to carry out, give effect to and consummate the transactions contemplated thereby and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing certificates and other documents required to be delivered in connection with the First Amendment.

SECTION 3. Severability. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and the City Council of the City hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 4. Incorporation of Findings and Determinations. The findings and determinations of the City Council of the City contained in the preamble hereof are hereby incorporated by reference and made a part of this Resolution for all purposes as if the same were restated in full in this Section.

SECTION 5. Public Meeting. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551 of the Texas Government Code, as amended.

SECTION 6. Effective Date. This Resolution shall be effective immediately upon its approval and adoption.

[Remainder of Page Intentionally Left Blank]

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF EL PASO, TEXAS

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

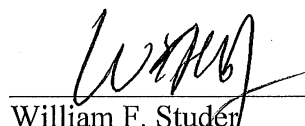
(SEAL)

APPROVED AS TO FORM:



~~Assistant~~ City Attorney  
City of El Paso

APPROVED AS TO CONTENT:



William F. Studer  
Deputy City Manager  
Finance and Management Support Services

## **EXHIBIT A**

*(See attachment)*

STATE OF TEXAS           §

COUNTY OF EL PASO       §

**FIRST AMENDMENT TO AGREEMENT WITH RESPECT TO  
TRANSPORTATION REINVESTMENT ZONE NUMBER THREE**

THIS FIRST AMENDMENT is made by and between the City of El Paso, Texas, a municipal corporation organized under the laws of the State of Texas (the "City"), and the Camino Real Regional Mobility Authority, a regional mobility authority organized and existing under Chapter 370 of the Texas Transportation Code, as amended (the "CRRMA").

W I T N E S S E T H:

WHEREAS, the City has previously established a Transportation Reinvestment Zone Number Three, City of El Paso, Texas (the "Zone") to promote transportation projects described by Section 222.104 of the Texas Transportation Code ("Section 222.104") that cultivate development and redevelopment of the Zone; and

WHEREAS, on June 29, 2010, the CRRMA and the City entered into an "Agreement With Respect to Transportation Reinvestment Zone Number Three" for the development and construction of one or more transportation projects within the Zone and the transfer and pledge of certain revenues for the payment of such projects (the "Original Agreement"); and

WHEREAS, the City and the CRRMA originally intended to enter into one or more agreements (the "Pass-through Agreement") with the Texas Department of Transportation (the "Department") under Section 222.104 for the design, development, financing, construction, maintenance, or operation of certain projects located within the Zone; and

WHEREAS, as a result of a change in law and anticipated funding sources for projects within the Zone, the Department, the CRRMA and the City have mutually determined that a Pass-Through Agreement is no longer required for the Zone projects which necessitates certain technical amendments to the Original Agreement; and

WHEREAS, no CRRMA Obligations (as defined in the Original Agreement) have been issued and only the agreement of the City and the CRRMA is required to amend the Original Agreement;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the parties agree as follows:

1. The sixth, seventh and eighth recitals to the Original Agreement and the definition of "Pass-through Agreement" contained in Section 1 of the Original Agreement are hereby deleted in their entirety.

2. The definition of "Project" contained in Section I of the Original Agreement is hereby amended in its entirety to read as follows:

"Project" shall refer to the Transmountain Road main lane extension project identified in the 2008 Comprehensive Mobility Plan, including the addition of additional lanes between existing frontage roads of Loop 375 in Northeast El Paso from Dyer (BUS 54) to U.S. 54 (Patriot Freeway), grade separations, aesthetic enhancements and related improvements related to such project.

3. Section II of the Original Agreement is deleted in its entirety and in its place the following is inserted:

II.  
RESERVED

4. Section III. B of the Original Agreement is hereby amended by deleting the phrase "*the necessary Pass-through Agreement*" from such section.

5. Section IV. A of the Original Agreement is hereby amended by deleting the phrase "*contingent solely upon execution and delivery of a Pass-through Agreement for the development of one or more of the Projects*" from the second sentence of such section.

6. Section IV. I of the Original Agreement is hereby deleted in its entirety.

7. This First Amendment may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same instrument.

8. This First Amendment shall be effective upon its execution by all the parties hereto.

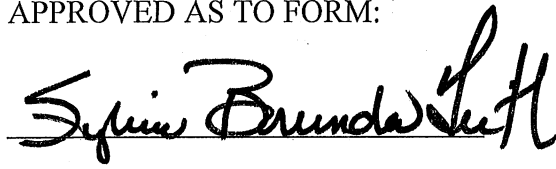
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EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF EL PASO**

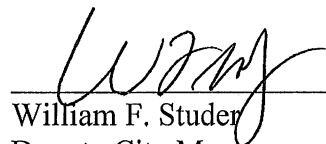
\_\_\_\_\_  
Joyce Wilson  
City Manager

APPROVED AS TO FORM:



\_\_\_\_\_  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
William F. Studer  
Deputy City Manager  
Finance and Management Support Services

**CAMINO REAL REGIONAL  
MOBILITY AUTHORITY**

\_\_\_\_\_  
Raymond L. Telles  
Executive Director